

15992  
USPTO

PTO/SB/05 (01-04)

Approved for use through 07/31/2006. OMB 0651-0032  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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# UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

**APPLICATION ELEMENTS**

See MPEP chapter 600 concerning utility patent application contents.

1.  Fee Transmittal Form (e.g., PTO/SB/17)  
(Submit an original and a duplicate for fee processing)
2.  Applicant claims small entity status.  
See 37 CFR 1.27.
3.  Specification [Total Pages 32]

(preferred arrangement set forth below)

- Descriptive title of the invention
- Cross Reference to Related Applications
- Statement Regarding Fed sponsored R & D
- Reference to sequence listing, a table, or a computer program listing appendix
- Background of the Invention
- Brief Summary of the Invention
- Brief Description of the Drawings (if filed)
- Detailed Description
- Claim(s)
- Abstract of the Disclosure

4.  Drawing(s) (35 U.S.C. 113) [Total Sheets 1]

5. Oath or Declaration [Total Sheets 1]

- a.  Newly executed (original or copy)
- b.  Copy from a prior application (37 CFR 1.63 (d))  
(for continuation/divisional with Box 18 completed)
- i.  **DELETION OF INVENTOR(S)**  
Signed statement attached deleting inventor(s)  
name in the prior application, see 37 CFR  
1.63(d)(2) and 1.33(b).

6.  Application Data Sheet. See 37 CFR 1.76

Attorney Docket No.	SP-1270
First Inventor	Wong, et al.
Title	Phytase-Treated Acid Stable Soy Protein Products
Express Mail Label No.	EV 042962472 US

**APPLICATION ELEMENTS**  
**ADDRESS TO:**  
 Mail Stop Patent Application  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

7.  CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
- a.  Computer Readable Form (CRF)
- b. Specification Sequence Listing on:
- i.  CD-ROM or CD-R (2 copies); or
- ii.  paper
- c.  Statements verifying identity of above copies

**ACCOMPANYING APPLICATION PARTS**

9.  Assignment Papers (cover sheet & document(s))
10.  37 CFR 3.73(b) Statement (when there is an assignee)  Power of Attorney
11.  English Translation Document (if applicable)
12.  Information Disclosure Statement (IDS)/PTO-1449  Copies of IDS Citations
13.  Preliminary Amendment
14.  Return Receipt Postcard (MPEP 503) (Should be specifically itemized)
15.  Certified Copy of Priority Document(s) (if foreign priority is claimed)
16.  Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
17.  Other: .....

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:

 Continuation       Divisional       Continuation-in-part (CIP)      of prior application No.: .....

Prior application information: Examiner Art Unit: \_\_\_\_\_

For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

**19. CORRESPONDENCE ADDRESS**
 Customer Number: \_\_\_\_\_ OR  Correspondence address below

Name	SOLAE, LLC		
Address	P. O. BOX 88940 BUILDING 3C, LEGAL DEPARTMENT		
City	ST. LOUIS	State	MO
Country	USA	Telephone	314-982-3004
Fax	314-982-2424		

Name (Print/type)	JAMES L. CORDEK	Registration No. (Attorney/Agent)	31,807
Signature			
Date	10 May 2004		

This collection of information is required by 37 CFR 1.53(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

 Applicant Claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 1314.00)

## Complete if Known

Application Number	
Filing Date	
First Named Inventor	Wong, et al.
Examiner Name	
Art Unit	
Attorney Docket No.	SP-1270

METHOD OF PAYMENT (check all that apply)					FEE CALCULATION (continued)				
<input type="checkbox"/> Check <input type="checkbox"/> Credit card <input type="checkbox"/> Money Order <input type="checkbox"/> Other <input type="checkbox"/> None <input checked="" type="checkbox"/> Deposit Account Deposit Account Number 50-0421 Deposit Account Name SOLAE, LLC					<b>3. ADDITIONAL FEES</b> Large Entity      Small Entity Fee Code   Fee (\$)      Fee Code   Fee (\$)      Fee Description      Fee Paid				
The Director is authorized to: (check all that apply) <input checked="" type="checkbox"/> Charge fee(s) indicated below <input checked="" type="checkbox"/> Credit any overpayments <input type="checkbox"/> Charge any additional fee(s) or any underpayment of fee(s) <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.					1051 130 2051 65 Surcharge - late filing fee or oath 1052 50 2052 25 Surcharge - late provisional filing fee or cover sheet 1053 130 1053 130 Non-English specification 1812 2,520 1812 2,520 For filing a request for <i>ex parte</i> reexamination 1804 920* 1804 920* Requesting publication of SIR prior to Examiner action 1805 1,840* 1805 1,840* Requesting publication of SIR after Examiner action 1251 110 2251 55 Extension for reply within first month 1252 420 2252 210 Extension for reply within second month 1253 950 2253 475 Extension for reply within third month 1254 1,480 2254 740 Extension for reply within fourth month 1255 2,010 2255 1,005 Extension for reply within fifth month 1401 330 2401 165 Notice of Appeal 1402 330 2402 165 Filing a brief in support of an appeal 1403 290 2403 145 Request for oral hearing 1451 1,510 1451 1,510 Petition to institute a public use proceeding 1452 110 2452 55 Petition to revive - unavoidable 1453 1,330 2453 665 Petition to revive - unintentional 1501 1,330 2501 665 Utility issue fee (or reissue) 1502 480 2502 240 Design issue fee 1503 640 2503 320 Plant issue fee 1460 130 1460 130 Petitions to the Commissioner 1807 50 1807 50 Processing fee under 37 CFR 1.17(q) 1806 180 1806 180 Submission of Information Disclosure Stmt 8021 40 8021 40 Recording each patent assignment per property (times number of properties) 40.00 1809 770 2809 385 Filing a submission after final rejection (37 CFR 1.129(a)) 1810 770 2810 385 For each additional invention to be examined (37 CFR 1.129(b)) 1801 770 2801 385 Request for Continued Examination (RCE) 1802 900 1802 900 Request for expedited examination of a design application				
<b>FEE CALCULATION</b> <b>1. BASIC FILING FEE</b> Large Entity      Small Entity Fee Code   Fee (\$)      Fee Code   Fee (\$)      Fee Description      Fee Paid									
1001 770 2001 385 Utility filing fee 770.00 1002 340 2002 170 Design filing fee 1003 530 2003 265 Plant filing fee 1004 770 2004 385 Reissue filing fee 1005 160 2005 80 Provisional filing fee									
<b>SUBTOTAL (1) (\$ 770.00)</b>									
<b>2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE</b> Total Claims      Extra Claims      Fee from below      Fee Paid 48      -20**= 28      X 18.00 = 504.00 Independent Claims      3      -3**= 0      X 0 = Multiple Dependent									
Large Entity      Small Entity Fee Code   Fee (\$)      Fee Code   Fee (\$)      Fee Description									
1202 18 2202 9 Claims in excess of 20 1201 86 2201 43 Independent claims in excess of 3 1203 290 2203 145 Multiple dependent claim, if not paid 1204 86 2204 43 **Reissue independent claims over original patent 1205 18 2205 9 **Reissue claims in excess of 20 and over original patent									
<b>SUBTOTAL (2) (\$ 504.00)</b>									
** or number previously paid, if greater; For Reissues, see above					Other fee (specify) _____ *Reduced by Basic Filing Fee Paid				
					<b>SUBTOTAL (3) (\$ 40.00)</b>				

SUBMITTED BY						Complete (if applicable)	
Name (Print/Type)	JAMES L. CORDEK		Registration No. (Attorney/Agent)	31,807	Telephone	314-982-2409	
Signature	<i>James L. Cordek</i>				Date	10 May 2004	

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**Attorney's Docket No. SP-1270**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of : Wong et al.  
Serial No. : Not Assigned  
Filed : Not Assigned  
Art Unit : To Be Assigned  
For : Phytase-Treated Acid Stable Soy Protein Products

**Commissioner for Patents  
PO Box 1450  
Arlington VA 22313-1450**

**EXPRESS MAIL CERTIFICATE**

"Express Mail" Label Number: **EV 042962472 US**

Date of Deposit: **March 10, 2004**

I hereby certify that the attached: Utility Patent Application Transmittal, Specifications, Claims, Drawing, Abstract "Phytase-Treated Acid Stable Soy Protein Products", (2) Fee Transmittals for FY 2004, (2) Recordation Form Cover Sheets, (2) New Application Transmittals, Declaration and Power of Attorney For Patent Application, Assignment, PTO Form 1449, Transmittal of Information Disclosure Statement Three Months of Filing or Before Mailing of First Office Action (37 C.F.R. § 1.97 (b)), Information Disclosure Statement, Citations are being deposited with the United States Postal Service as "Express Mail" in an envelope addressed to:

Commissioner for Patents  
P.O. Box 1450  
Arlington, VA 22313-1450

Dated: 3/10/04

Tonya Walker  
Tonya Walker

Preliminary Classification:

Proposed Class:

Subclass:

NOTE: ``All applicants are requested to include a preliminary classification on newly filed patent applications. The preliminary classification, preferably class and subclass designations, should be identified in the upper right-hand corner of the letter of transmittal accompanying the application papers, for example "Proposed Class 2,- subclass 129.' " M.P.E.P. § 601, 7th ed.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

NEW APPLICATION TRANSMITTAL

Transmitted herewith for filing is the patent application of

Inventor(s): Theodore M. Wong, Shaowen Wu, Cheng Shen

**WARNING:** 37 C.F.R. § 1.41(a)(1) points out:

``(a) A patent is applied for in the name or names of the actual inventor or inventors.

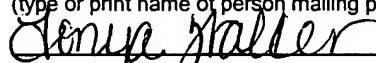
``(1) The inventorship of a nonprovisional application is that inventorship set forth in the oath or declaration as prescribed by § 1.63, except as provided for in § 1.53(d)(4) and § 1.63(d). If an oath or declaration as prescribed by § 1.63 is not filed during the pendency of a nonprovisional application, the inventorship is that inventorship set forth in the application papers filed pursuant to § 1.53(b), unless a petition under this paragraph accompanied by the fee set forth in § 1.17(i) is filed supplying or changing the name or names of the inventor or inventors."

For (title):  
Phytase-Treated Acid Stable Soy Protein Products

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Express Mailing Under 37 C.F.R. § 1.10\*  
(Express Mail label number is mandatory.)  
Express Mail Certification is optional.)

I hereby certify that this paper, along with any document referred to, is being deposited with the United States Postal Service on this date 3/10/04 in an envelope addressed to the Commissioner for Patents, P.O Box 1450, Alexandria, VA 22313-1450 as "Express Mail Post Office to Addressee" Mailing Label No.EV 042962472 US

Tonya Walker  
(type or print name of person mailing paper)  
  
Signature of person certifying

**Warning:** Certificate of mailing (first class) or facsimile transmission procedures of 37 C.F.R. 1.8 cannot be used to obtain a date of mailing or transmission for this correspondence.

**Warning:** Each paper or fee filed by "Express Mail" must have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. 1.10(b). "Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition. "Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439 at 56,442.

## 1. Type of Application

This new application is for a(n)

(check one applicable item below)

- Original (nonprovisional)  
Design  
Plant

**WARNING:** Do not use this transmittal for a completion in the U.S. of an International Application under 35 U.S.C. § 371(c)(4), unless the International Application is being filed as a divisional, continuation or continuation-in-part application.

**WARNING:** Do not use this transmittal for the filing of a provisional application.

**NOTE:** If one of the following 3 items apply, then complete and attach **ADDED PAGES FOR NEW APPLICATION TRANSMITTAL WHERE BENEFIT OF A PRIOR U.S. APPLICATION CLAIMED** and a **NOTIFICATION IN PARENT APPLICATION OF THE FILING OF THIS CONTINUATION APPLICATION**.

- Divisional.  
Continuation.  
Continuation-in-part (C-I-P).

## 2. Benefit of Prior U.S. Application(s) (35 U.S.C. §§ 119(e), 120, or 121)

**NOTE:** ^A nonprovisional application or international application designating the United States of America may claim an invention disclosed in one or more prior-filed copending nonprovisional applications or international applications designating the United States of America. In order for an application to claim the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America, each prior-filed application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, each prior-filed application must be:

- (i) An international application entitled to a filing date in accordance with PCT Article 11 and designating the United States of America; or
- (ii) Complete as set forth in § 1.51(b); or
- (iii) Entitled to a filing date as set forth in § 1.53(b) or § 1.53(d) and include the basic filing fee set forth in § 1.16; or
- (iv) Entitled to a filing date as set forth in § 1.53(b) and have paid therein the processing and retention fee set forth in § 1.21(l) within the time period set forth in § 1.53(f).

37 C.F.R. § 1.78(a)(1).

**WARNING:** If an application claims the benefit of the filing date of an earlier filed application under 35 U.S.C. §§ 120, 121 or 365(c), the 20-year term of that application will be based upon the filing date of the earliest U.S. application that the application makes reference to under 35 U.S.C. §§ 120, 121 or 365(c). (35 U.S.C. § 154(a)(2) does not take into account, for the determination of the patent term, any application on which priority is claimed under 35 U.S.C. §§ 119, 365(a) or 365(b).) For a c-i-p application, applicant should review whether any claim in the patent that will issue is supported by an earlier application and, if not, the applicant should consider canceling the reference to the earlier filed application. The term of a patent is not based on a claim-by-claim approach. See Notice of April 14, 1995, 60 Fed. Reg. 20,195, at 20,205.

(New Application Transmittal [4-1] --page 2 of 15)

**WARNING:** 37 C.F.R. § 1.78(a)(2) deals with the time in which the claim for the benefit of an earlier filing date must be made and states:

“(2)(i) Except for a continued prosecution application filed under § 1.53(d), any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending nonprovisional applications or international applications designating the United States of America must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see § 1.14).

(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed application. These time periods are not extendable. Except as provided in paragraph (a)(3) of this section, the failure to timely submit the reference required by 35 U.S.C. 120 and paragraph (a)(2)(i) of this section is considered a waiver of any benefit under 35 U.S.C. 120, 121, or 365(c) to such prior-filed application. The time periods in this paragraph do not apply if the later-filed application is:

- (A) An application for a design patent;
- (B) An application filed under 35 U.S.C. 111(a) before November 29, 2000; or
- (C) A nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000.

(iii) If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence following the title.

(iv) The request for a continued prosecution application under § 1.53(d) is the specific reference required by 35 U.S.C. 120 to the prior-filed application. The identification of an application by application number under this section is the identification of every application assigned that application number necessary for a specific reference required by 35 U.S.C. 120 to every such application assigned that application number.”

**NOTE:** If the new application being transmitted is a divisional, continuation or a continuation-in-part of a parent case, or where the parent case is an International Application which designated the U.S., or benefit of a prior provisional application is claimed, then check the following item and complete and attach **ADDED PAGES FOR NEW APPLICATION TRANSMITTAL WHERE BENEFIT OF PRIOR U.S. APPLICATION(S) CLAIMED**.

[ ]The new application being transmitted claims the benefit of prior U.S. application(s). Enclosed are **ADDED PAGES FOR NEW APPLICATION TRANSMITTAL WHERE BENEFIT OF PRIOR U.S. APPLICATION(S) CLAIMED**.

### 3. Papers Enclosed

#### A. Required for filing date under 37 C.F.R. § 1.53(b) (Regular) or 37 C.F.R. § 1.153 (Design) Application

Pages of specification 23

Pages of claims 8

Sheets of drawing 1

**WARNING:** **DO NOT** submit original drawings. A high quality copy of the drawings should be supplied when filing a patent application. The drawings that are submitted to the Office must be on strong, white, smooth, and non-shiny paper and meet the standards according to § 1.84. If corrections to the drawings are necessary, they should be made to the original drawing and a high-quality copy of the corrected original drawing then submitted to the Office. Only one copy is required or desired. For comments on proposed then-new 37 C.F.R. § 1.84, see Notice of March 9, 1988 (1990 O.G. 57-62).

**NOTE:** ``Identification of drawings. Identifying indicia, if provided, should include the title of the invention, inventor's name and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin."

**(complete the following, if applicable)**

[ ]The enclosed drawing(s) are photograph(s).

**NOTE: 37 C.F.R. 1.84**

``(b) Photographs.

``(1) Black and white. Photographs, including photocopies of photographs, are not ordinarily permitted in utility and design patent applications. The Office will accept photographs in utility and design patent applications, however, if photographs are the only practicable medium for illustrating the claimed invention. For example, photographs or photomicrographs of: electrophoresis gels, blots (e.g., immunological, western, Southern, and northern), auto radiographs, cell cultures (stained and unstained), histological tissue cross sections (stained and unstained), animals, plants, in vivo imaging, thin layer chromatography plates, crystalline structures, and, in a design patent application, ornamental effects, are acceptable. If the subject matter of the application admits of illustration by a drawing, the examiner may require a drawing in place of the photograph. The photographs must be of sufficient quality so that all details in the photographs are reproducible in the printed patent.

``(2) Color photographs. Color photographs will be accepted in utility and design patent applications if the conditions for accepting color drawings and black and white photographs have been satisfied. See paragraphs (a)(2) and (b)(1) of this section."

[ ]The enclosed drawing(s) are in color. Three (3) sets of color drawings and a ``**PETITION TO ACCEPT COLOR DRAWING(S)**" are attached. 37 C.F.R. §§ 1.84(a)(2) and 1.84(b).

**NOTE: 37 C.F.R. 1.84(a)**

``(2) Color. On rare occasions, color drawings may be necessary as the only practical medium by which to disclose the subject matter sought to be patented in a utility or design patent application or the subject matter of a statutory invention registration. The color drawings must be of sufficient quality such that all details in the drawings are reproducible in black and white in the printed patent. Color drawings are not permitted in international applications (see PCT Rule 11.13), or in an application, or copy thereof, submitted under the Office electronic filing system. The Office will accept color drawings in utility or design patent applications and statutory invention registrations only after granting a petition filed under this paragraph explaining why the color drawings are necessary. Any such petition must include the following:

- (i) The fee set forth in § 1.17(h);
- (ii) Three (3) sets of color drawings;
- (iii) A black and white photocopy that accurately depicts, to the extent possible, the subject matter shown in the color drawing; and
- (iv) An amendment to the specification to insert (unless the specification contains or has been previously amended to contain) the following language as the first paragraph of the brief description of the drawings:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

[ ]formal  
[X]informal

**B. Other Papers Enclosed**

- \_1 Pages of declaration and power of attorney
- \_1 Pages of abstract
- Other

**4. Additional papers enclosed**

[ ]Amendment to claims

[ ]Cancel in this application claims \_\_\_\_\_ before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)

[ ]Add the claims shown on the attached amendment. (Claims added have been numbered consecutively following the highest numbered original claims.)

[ ]Preliminary Amendment

[ ]Information Disclosure Statement (37 C.F.R. § 1.98)

**NOTE:** 37 C.F.R. § 1.97 (b) An information disclosure statement shall be considered by the Office if filed by the applicant within any one of the following time periods:

- (1) Within three months of the filing date of a national application other than a continued prosecution application under § 1.53(d);
- (2) Within three months of the date of entry of the national stage as set forth in § 1.491 in an international application;
- (3) Before the mailing of a first Office action on the merits; or

**WARNING:** In order to ensure consideration of information previously submitted but which has not been considered in the parent application, an applicant must resubmit the information, complying with 37 C.F.R. § 1.97 and 37 C.F.R. § 1.98, in the continuing application filed under 37 C.F.R. § 1.53(b). See § 609B(3), M.P.E.P., 7th Edition, Rev. 1.

[ X]Form PTO-1449 (PTO/SB/08A and 08B)

[ X]Citations

[ ]Declaration of Biological Deposit

[ ]Submission of ``Sequence Listing," computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

[ ]Authorization of Attorney(s) to Accept and Follow Instructions from Representative

[ ]Special Comments

[ ]Other

**5. Declaration or oath (including power of attorney)**

**NOTE:** A newly executed declaration is not required in a continuation or divisional application provided that the prior nonprovisional application contained a declaration as required, the application being filed is by all or fewer than all the inventors named in the prior application, there is no new matter in the application being filed, and a copy of the executed declaration filed in the prior application (showing the signature or an indication thereon that it was signed) is submitted. The copy must be accompanied by a statement requesting deletion of the names of person(s) who are not inventors of the application being filed. If the declaration in the prior application was filed under § 1.47, then a copy of that declaration must be filed accompanied by a copy of the decision granting § 1.47 status or, if a nonsigning person under § 1.47 has subsequently joined in a prior application, then a copy of the subsequently executed declaration must be filed. See 37 C.F.R. §§ 1.63(d)(1)-(3).

**NOTE:** A declaration filed to complete an application must be executed, identify the specification to which it is directed, identify each inventor by full name including family name and at least one given name, without abbreviation together with any other given name or initial, and the residence, post office address and country or citizenship of each inventor, and state whether the inventor is a sole or joint inventor. 37 C.F.R. § 1.63(a)(1)-(4).

**NOTE:** ``The inventorship of a nonprovisional application is that inventorship set forth in the oath or declaration as prescribed by § 1.62, except as provided for in § 1.53(d)(4) and § 1.63(d). If an oath or declaration as prescribed by § 1.63 is not filed during the pendency of a nonprovisional application, the inventorship is that inventorship set forth in the application papers filed pursuant to § 1.53(b), unless a petition under this paragraph accompanied by the fee set forth in § 1.17(i) is filed supplying or changing the name or names of the inventor or inventors." 37 C.F.R. § 1.41(a)(1).

Enclosed  
Executed by

(check all applicable boxes)

- Inventor(s).  
 legal representative of inventor(s). 37 C.F.R. §§ 1.42 or 1.43.  
 joint inventor or person showing a proprietary interest on behalf of inventor who refused to sign or cannot be reached.

This is the petition required by 37 C.F.R. § 1.47 and the statement required by 37 C.F.R. § 1.47 is also attached. See item 13 below for fee.

Not Enclosed.

**NOTE:** Where the filing is a completion in the U.S. of an International Application or where the completion of the U.S. application contains subject matter in addition to the International Application, the application may be treated as a continuation or continuation-in-part, as the case may be, utilizing *ADDED PAGE FOR NEW APPLICATION TRANSMITTAL WHERE BENEFIT OF PRIOR U.S. APPLICATION CLAIMED*.

Application is made by a person authorized under 37 C.F.R. § 1.41(c) on behalf of all the above named inventor(s).

(The declaration or oath, along with the surcharge required by 37 C.F.R. § 1.16(e) can be filed subsequently).

Showing that the filing is authorized.

(not required unless called into question. 37 C.F.R. § 1.41(d) )

## 6. Inventorship Statement

**WARNING:** If the named inventors are each not the inventors of all the claims an explanation, including the ownership of the various claims at the time the last claimed invention was made, should be submitted.

The inventorship for all the claims in this application are:

The same.

or

Not the same. An explanation, including the ownership of the various claims at the time the last claimed invention was made,

is submitted.

will be submitted.

## 7. Language

**NOTE:** An application including a signed oath or declaration may be filed in a language other than English. An English translation of the non-English language application and the processing fee of \$130.00 required by 37 C.F.R. § 1.17(k) is required to be filed with the application, or within such time as may be set by the Office. 37 C.F.R. § 1.52(d) .

English

Non-English

The attached translation includes a statement that the translation is accurate. 37 C.F.R. § 1.52(d) .

## 8. Assignment

[ X] An assignment of the invention to SOLAE, LLC.

[ X] is attached. A separate [ ] ``COVER SHEET FOR ASSIGNMENT (DOCUMENT) ACCOMPANYING NEW PATENT APPLICATION'' or [X ] FORM PTO 1595 is also attached.

[ ] will follow.

**NOTE:** ``If an assignment is submitted with a new application, send two separate letters-one for the application and one for the assignment.'' Notice of May 4, 1990 (1114 O.G. 77-78).

**WARNING:** A newly executed ``CERTIFICATE UNDER 37 C.F.R. § 3.73(b)'' must be filed when a continuation-in-part application is filed by an assignee. Notice of April 30, 1993, 1150 O.G. 62-64..

[ ] This is a [ ] continuation [ ] divisional application and the assignment document for the parent application 0/ \_\_\_\_\_ was filed on \_\_\_\_\_.

Reel \_\_\_\_\_  
Frame \_\_\_\_\_

## 9. Certified Copy

Certified copy(ies) of application(s)

Country Filed	Appln.	No.
Country Filed	Appln.	No.
Country Filed	Appln.	No.

from which priority is claimed

[ ] is (are) attached.

[ ] will follow.

**NOTE:** 37 C.F.R. § 1.55 Claim for foreign priority.

\*(a) \*\*\*

(1)(i) In an original application filed under 35 U.S.C. 111(a), the claim for priority must be presented during the pendency of the application, and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. This time period is not extendable. The claim must identify the foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by specifying the application number, country (or intellectual property authority), day, month, and year of its filing. The time periods in this paragraph do not apply in an application under 35 U.S.C. 111(a) if the application is:

(A) A design application; or

(B) An application filed before November 29, 2000.  
\*\*\*\*\*

(c) Unless such claim is accepted in accordance with the provisions of this paragraph, any claim for priority under 35 U.S.C. 119(a)-(d) or 365(a) not presented within the time period provided by paragraph (a) of this section is considered to have been waived. If a claim for priority under 35 U.S.C. 119(a)-(d) or 365(a) is presented after the time period provided by paragraph (a) of this section, the claim may be accepted if the claim identifying the prior foreign application by specifying its application number, country (or intellectual property authority), and the day, month, and year of its filing was unintentionally delayed. A petition to accept a delayed claim for priority under 35 U.S.C. 119(a)-(d) or 365(a) must be accompanied by:

- (1) The claim under 35 U.S.C. 119(a)-(d) or 365(a) and this section to the prior foreign application, unless previously submitted;
- (2) The surcharge set forth in § 1.17(t); and
- (3) A statement that the entire delay between the date the claim was due under paragraph (a)(1) of this section and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional."

**NOTE:** 37 C.F.R. § 1.63 Oath or declaration.

"(a) An oath or declaration filed under § 1.51(b)(2) as a part of a nonprovisional application must:

• \*\*\*

(c) Unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify:

- (2) Any foreign application for patent (or inventor's certificate) for which a claim for priority is made pursuant to § 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing."

The foreign application forming the basis for the claim for priority must be referred to in the oath or declaration. 37 C.F.R. § 1.55(a) and 1.63.

**NOTE:** This item is for any foreign priority for which the application being filed directly relates. If any parent U.S. application or International Application from which this application claims benefit under 35 U.S.C. § 120 is itself entitled to priority from a prior foreign application, then complete item 18 on the ADDED PAGES FOR NEW APPLICATION TRANSMITTAL WHERE BENEFIT OF PRIOR U.S. APPLICATION(S) CLAIMED.

#### 10. Fee Calculation (37 C.F.R. § 1.16)

##### A. [ X] Regular application

##### CLAIMS AS FILED

Number filed		Number Extra	Rate	Basic Fee <u>37 C.F.R. § 1.16(a)</u> \$770.00
Total Claims ( <u>37 C.F.R. § 1.16(c)</u> )	(48)	20 = 28	× \$ 18.00	504.00
Independent Claims ( <u>37 C.F.R. § 1.16(c)</u> )	(3)	-3= 0	× \$ 86.00	-0-
Multiple dependent claim(s), if any ( <u>37 C.F.R. § 1.16(d)</u> )		0	+ \$290.00	

[ ]Amendment cancelling extra claims is enclosed.

[ ]Amendment deleting multiple-dependencies is enclosed.

[ ]Fee for extra claims is not being paid at this time.

**NOTE:** If the fees for extra claims are not paid on filing they must be paid or the claims cancelled by amendment, prior to the expiration of the time period set for response by the Patent and Trademark Office in any notice of fee deficiency. 37 C.F.R. § 1.16(d).

**Filing Fee Calculation \$ 1274.00**

(New Application Transmittal [4-1]--page 8 of 15)

**B. [ ] Design application  
(\$330.00--37 C.F.R. § 1.16(f))**

**Filing Fee Calculation \$ \_\_\_\_\_**

**C. [ ] Plant application  
(\$510.00--37 C.F.R. § 1.16(g))**

**Filing fee calculation \$ \_\_\_\_\_**

## **11. Assertion of Small Entity Status**

[ ] Applicant hereby asserts status as a small entity under 37 C.F.R. § 1.27

**NOTE:** 37 C.F.R. § 1.27(c) deals with the assertion of small entity status, whether by a written specific declaration thereof or by payment as a small entity of the basic filing fee or the fee for the entry into the national phase and states:

“(c) Assertion of small entity status. Any party (person, small business concern or nonprofit organization) should make a determination, pursuant to paragraph (f) of this section, of entitlement to be accorded small entity status based on the definitions set forth in paragraph (a) of this section, and must, in order to establish small entity status for the purpose of paying small entity fees, actually make an assertion of entitlement to small entity status, in the manner set forth in paragraphs (c)(1) or (c)(3) of this section, in the application or patent in which such small entity fees are to be paid.

(1) Assertion by writing. Small entity status may be established by a written assertion of entitlement to small entity status. A written assertion must:

- (i) Be clearly identifiable;
- (ii) Be signed (see paragraph (c)(2) of this section); and

(iii) Convey the concept of entitlement to small entity status, such as by stating that applicant is a small entity, or that small entity status is entitled to be asserted for the application or patent. While no specific words or wording are required to assert small entity status, the intent to assert small entity status must be clearly indicated in order to comply with the assertion requirement.

(2) Parties who can sign and file the written assertion. The written assertion can be signed by:

(i) One of the parties identified in § 1.33(b) (e.g., an attorney or agent registered with the Office), § 3.73(b) of this chapter notwithstanding, who can also file the written assertion;

(ii) At least one of the individuals identified as an inventor (even though a § 1.63 executed oath or declaration has not been submitted), notwithstanding § 1.33(b)(4), who can also file the written assertion pursuant to the exception under § 1.33(b) of this part; or

(iii) An assignee of an undivided part interest, notwithstanding §§ 1.33(b)(3) and 3.73(b) of this chapter, but the partial assignee cannot file the assertion without resort to a party identified under § 1.33(b) of this part.

(3) Assertion by payment of the small entity basic filing or basic national fee. The payment, by any party, of the exact amount of one of the small entity basic filing fees set forth in §§ 1.16(a), (f), (g), (h), or (k), or one of the small entity basic national fees set forth in §§ 1.492(a)(1), (a)(2), (a)(3), (a)(4), or (a)(5), will be treated as a written assertion of entitlement to small entity status even if the type of basic filing or basic national fee is inadvertently selected in error.

(i) If the Office accords small entity status based on payment of a small entity basic filing or basic national fee under paragraph (c)(3) of this section that is not applicable to that application, any balance of the small entity fee that is applicable to that application will be due along with the appropriate surcharge set forth in § 1.16(e), or § 1.16(l).

(ii) The payment of any small entity fee other than those set forth in paragraph (c)(3) of this section (whether in the exact fee amount or not) will not be treated as a written assertion of entitlement to small entity status and will not be sufficient to establish small entity status in an application or a patent.”

**WARNING:** 37 C.F.R. § 1.27(c)(4): ``Assertion required in related, continuing, and reissue applications. Status as a small entity must be specifically established by an assertion in each related, continuing and reissue application in which status is appropriate and desired. Status as a small entity in one application or patent does not affect the status of any other application or patent, regardless of the relationship of the applications or patents. The refiling of an application under § 1.53 as a continuation, divisional, or continuation-in-part application (including a continued prosecution application under § 1.53(d)), or the filing of a reissue application, requires a new assertion as to continued entitlement to small entity status for the continuing or reissue application.''

**WARNING:** ``Small entity status must not be established when the person or persons signing the ... statement can unequivocally make the required self-certification.'' M.P.E.P., § 509.03. (emphasis added).

**(complete the following, if applicable)**

[ ] Status as a small entity was asserted in the prior application \_\_\_\_\_ / \_\_\_\_\_, filed on \_\_\_\_\_, from which benefit is being claimed for this application under:

- 35 U.S.C.- §       119(e)  
 120  
 121  
 365(c)

and which status as a small entity is still proper and asserted for this application.

[ ] A copy of the written assertion of small entity filed in the prior application is included.

**NOTE:** A refund based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. 37 C.F.R. § 1.28(a).

**Filing Fee Calculation (50% of A, B or C above)**

\$ \_\_\_\_\_

**12. Request for International-Type Search (37 C.F.R. § 1.104(d) )**

**(complete, if applicable)**

[ ] Please prepare an international-type search report for this application at the time when national examination on the merits takes place.

### 13. Fee Payment Being Made at This Time

[ ] Not Enclosed

[ ] No filing fee is to be paid at this time.  
(This and the surcharge required by 37 C.F.R. § 1.16(e) can be paid subsequently.)

[ X] Enclosed

[X] Filing fee \$ 1274.00

[ X] Recording assignment  
(\$40.00; 37 C.F.R. § 1.21(h))  
(See attached "COVER SHEET FOR ASSIGNMENT-  
ACCOMPANYING NEW APPLICATION".) \$ 40.00

[ ] Petition fee for filing by other than all the inventors or person on behalf of  
the inventor where inventor refused to sign or cannot be reached  
(\$130.00; 37 C.F.R. §§ 1.47 and 1.17(i)) \$ \_\_\_\_\_

[ ] For processing an application with a specification in  
a non-English language  
(\$130.00; 37 C.F.R. §§ 1.52(d) and 1.17(k)) \$ \_\_\_\_\_

[ ] Processing and retention fee  
(\$130.00; 37 C.F.R. §§ 1.53(d) and 1.21(l)) \$ \_\_\_\_\_

[ ] Fee for international-type search report  
(\$40.00; 37 C.F.R. § 1.21(e)) \$ \_\_\_\_\_

**NOTE:** 37 C.F.R. § 1.21(l) establishes a fee for processing and retaining any application that is abandoned for failing to complete the application pursuant to 37 C.F.R. § 1.53(f) and this, as well as the changes to 37 C.F.R. §§ 1.53 and 1.78(a)(1), indicate that in order to obtain the benefit of a prior U.S. application, either the basic filing fee must be paid, or the processing and retention fee of § 1.21(l) must be paid, within 1 year from notification under § 53(f).

Total fees enclosed \$ 1314.00

### 14. Method of Payment of Fees

[ ] Attached is a [ ] check [ ] money order in the amount of \$ \_\_\_\_\_

[X] Authorization is hereby made to charge the amount of \$ 1314.00

[X]to Deposit Account No. 50-0421

[ ]to Credit card as shown on the attached credit card information authorization form  
PTO-2038.

**WARNING:** Credit card information should not be included on this form as it may become public.

[ X] Charge any additional fees required by this paper or credit any overpayment in the manner  
authorized above.

A duplicate of this paper is attached.

## **15. Authorization to Charge Additional Fees**

**WARNING:** If no fees are to be paid on filing, the following items should not be completed.

**WARNING:** Accurately count claims, especially multiple dependent claims, to avoid unexpected high charges, if extra claim charges are authorized.

**WARNING:** Even though small entity status is accorded where the wrong type of small entity basic filing fee or basic national fee is selected but the exact amount of the fee is paid, applicant still needs to pay the correct small entity amount for the basic filing or basic national fee where selection of the wrong type of fee results in a deficiency. While an accompanying general authorization to charge any additional fees suffices to pay the balance due of the proper small entity basic filing or basic national fee, specific authorizations to charge fees under § 1.17 or extension of time fees do not suffice to pay any balance due of the proper small entity basic filing or basic national fee because they do not actually authorize payment of small entity amounts. Changes To Implement the Patent Business Goals; Final Rule [Fed. Reg.: September 8, 2000, pages 54603-54683, at 54611; OG: October 3, 2000, pages 14-39].

[ X]The Office is hereby authorized to charge, in the manner shown above, the following additional fees that may be required by this paper and during the entire pendency of this application.

[ X]37 C.F.R. § 1.16(a), (f) or (g) (filing fees)

[ X]37 C.F.R. § 1.16(b), (c) and (d) (presentation of extra claims)

**NOTE:** Because additional fees for excess or multiple dependent claims not paid on filing or on later presentation must only be paid or these claims cancelled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 C.F.R. § 1.16(d) ), it might be best not to authorize the PTO to charge additional claim fees, except possibly when dealing with amendments after final action.

[ ]37 C.F.R. § 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)

[ ] 37 C.F.R. § 1.17(a)(1)-(5) (extension fees pursuant to § 1.136(a)).

[ ]37 C.F.R. § 1.17 (application processing fees)

**NOTE:** "...A written request may be submitted in an application that is an authorization to treat any concurrent or future reply, requiring a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. An authorization to charge all required fees, fees under § 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission. Submission of the fee set forth in § 1.17(a) will also be treated as a constructive petition for an extension of time in any concurrent reply requiring a petition for an extension of time under this paragraph for its timely submission." 37 C.F.R. § 1.136(a)(3).

[ ]37 C.F.R. § 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 C.F.R. § 1.311(b) )

**NOTE:** Section 1.311(b) provides that an authorization to charge the issue fee (§ 1.18) to a deposit account may be filed in an individual application only after the mailing of the notice of allowance. Accordingly, general authorizations to pay fees and specific authorizations to pay the issue fee that are filed prior to the mailing of a notice of allowance will generally not be treated as requesting payment of the issue fee and will not be given effect to act as a reply to the notice of allowance. Applicant, when paying the issue fee, should submit a new authorization to charge fees, such as by completing box 6b on the current PTOL-85B form. Where no reply to the notice of allowance is received, the application will stand abandoned notwithstanding the presence of general authorizations to pay fees or a specific authorization to pay the issue fee that were submitted prior to mailing of the notice of allowance. Where an attempt is made to pay the issue fee but an incorrect amount is submitted, § 1.311(b)(1), or where the Office's issue fee transmittal form (currently PTOL-85(B)) is completed by applicant and submitted, § 1.311(b)(2), in reply to a notice of allowance, an exception will be made. Such submissions will operate as a request to charge the issue fee to any deposit account identified in a previously filed (i.e., submitted prior to the mailing of the notice of allowance) authorization to charge fees, and will be allowed to act as payment of the correct issue fee. § 1.311(b). See also the change to § 1.26(b). Notice of September 8, 2000, Fed. Reg. 54603-54683, at 54646 and 54647.

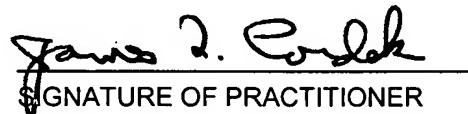
**NOTE:** 37 C.F.R. § 1.28(b) requires ``Notification of any change in status resulting in loss of entitlement to small entity status must be filed in the application ... prior to paying, or at the time of paying, ... the issue fee... " From the wording of 37 C.F.R. § 1.28(b), (a) notification of change of status must be made even if the fee is paid as ``other than a small entity" and (b) no notification is required if the change is to another small entity.

**16. Instructions as to Overpayment**

**NOTE:** ``... Amounts of twenty-five dollars or less will not be returned unless specifically requested within a reasonable time, nor will the payer be notified of such amounts; amounts over twenty-five dollars may be returned by check or, if requested, by credit to a deposit account." 37 C.F.R. § 1.26(a).

[  ] Credit Account No. 50-0421

[  ] Refund

  
\_\_\_\_\_  
**SIGNATURE OF PRACTITIONER**

Reg. No. 31,807

James L. Cordek  
(type or print name of attorney)

Tel. No. (314) 982-2409

P. O. Box 88940  
P.O. Address

Customer No.

St. Louis, MO 63188

**Incorporation by reference of added pages**

(check the following item if the application in this transmittal claims the benefit of prior U.S. application(s) (including an international application entering the U.S. stage as a continuation, divisional or C-I-P application) and complete and attach the *ADDED PAGES FOR NEW APPLICATION TRANSMITTAL WHERE BENEFIT OF PRIOR U.S. APPLICATION(S) CLAIMED*)

[ ]Plus Added Pages for New Application Transmittal Where Benefit of Prior U.S. Application(s) Claimed

Number of pages added \_\_\_\_\_

[ ]Plus Added Pages for Papers Referred to in Item 4 Above

Number of pages added \_\_\_\_\_

[ ]Plus added pages deleting names of inventor(s) named in prior application(s) who is/are no longer inventor(s) of the subject matter claimed in this application.

Number of pages added \_\_\_\_\_

[ ]Plus ``Assignment Cover Letter Accompanying New Application''

Number of pages added \_\_\_\_\_

**Statement Where No Further Pages Added**

(if no further pages form a part of this Transmittal, then end this Transmittal with this page and check the following item)

[ X]This transmittal ends with this page.

**ADDED PAGE(S) FOR SPECIAL COMMENTS FOR NEW APPLICATION TRANSMITTAL**

Added page       0